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C O N F I D E N T I A L STATE 132306

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TAGS: CVIS PINS PREL RW

SUBJECT: RWANDAN PUBLIC PROSECUTOR IN THE UNITED STATES:  
DEMARCHE INSTRUCTIONS

REF: AF/KIGALI E-MAILS OF 12/16/08

Classified By: AF ACTING A/S PHILLIP CARTER FOR REASONS 1.4(B) AND (D)

¶1. (U) Embassy Kigali is instructed to deliver the points in Para 7 below as soon as possible to the highest appropriate level within the Rwandan government. AF Acting A/S Carter delivered these same points to Rwandan Ambassador Kimonyo on Wednesday, December 17.

#### BACKGROUND

¶2. (SBU) On December 12, AF learned that a person purporting to represent the Rwandan government's Genocide Fugitives Tracking Unit had appeared two days earlier at a Maryland college and informed the college president that a Rwandan professor teaching at the institution was accused of involvement in the 1994 Rwandan genocide. The Rwandan government official (since confirmed to be Jean Bosco Mutangana, chief of the Tracking Unit at the Rwandan Prosecutor's office) was accompanied by an NBC News reporter. As a result of the visit, the college president placed the professor, who asserts his innocence of genocide, on leave. AF was faxed a 33-page GOR indictment of the professor that the visitors had given him. The indictment requests the professor's arrest and extradition to Rwanda.

¶3. (SBU) On December 15, the Human Rights Law Division of DHS/ICE contacted AF to ask whether the Department was aware that Jean Bosco Mutangana, chief of the Tracking Unit at the Rwandan Prosecutor's Office, has been traveling around the United States with an NBC crew, contacting U.S. law enforcement officials working on genocide suspects' cases, and informing those suspects' U.S. employers that they are employing genocidaires. According to Embassy Kigali, Mutangana possesses a valid B1/B2 visa issued in September 2008; at the time of his visa application, Mutangana stated that he was traveling to the United States to assist an NBC News crew with a documentary related to tracking and prosecuting alleged genocidaires.

¶4. (SBU) The Department of Justice's Office of Special Investigations (OSI) reports that it learned approximately six months ago that NBC planned a multi-part prime-time series and attempted, together with DHS/ICE, to discourage NBC from producing the program because of the likelihood it would unfairly prejudice innocent persons, and because public disclosure could potentially jeopardize open investigations. For these reasons, DHS and DOJ refused to participate in the production of the program. (According to DOJ, it has eight open investigations involving naturalized U.S. citizens, and DHS has the same number on non-citizens, all of which could be negatively affected by public disclosures.) OSI has provided the Department the following additional timeline of events:

- On/About December 3, OSI heard from a U.S. Attorney's Office in New York State that NBC had confronted a local police chief and sheriff, telling them that a notorious genocidaire was living in their town. The regional ICE office reassured the local law enforcement officials that the case was being handled appropriately.

- On/About December 8, OSI received indirectly a copy of

an e-mail apparently written by Mutangana on December 4 to his NBC contact, advising the reporter that a U.S. citizen in New York State was interfering with the investigation of an International Criminal Tribunal for Rwanda (ICTR) case. Despite multiple conversations between DOJ and the Government of Rwanda about both countries' investigations of that person, DOJ had never received the information in the Mutangana-NBC e-mail directly.

- On December 10, Mutangana entered the United States on his B1/B2 visa. (OSI was unaware of this until December 15.)

- Between December 8 and 15, OSI repeatedly attempted to contact Mutangana, with whom OSI and ICE have worked extensively in the past, to ask him about the December 4 e-mail, but Mutangana did not respond.

- Late in the week of December 8, the FBI learned from a Pennsylvania police department that NBC had confronted yet another Rwandan indictee living in the United States.

- On December 15, Mutangana left a phone message at OSI, informing the office that he is in the United States. OSI has not returned the call.

- On December 16, OSI learned that NBC confronted the identified individual in New York State on camera and requested that he "turn himself in." U.S. law enforcement had informed this person of NBC's intentions and offered to keep NBC off his property, but the crew were nonetheless successful in getting the individual to speak about the case.

¶15. (SBU) The Department understands from Embassy Kigali (ref) that Rwandan Prosecutor General Martin Ngoga confirmed on December 16 that Mutangana is in the United States on official GOR business - that business consisting of working with NBC officials on a documentary that the GOR apparently hopes will show the Rwandan government and its prosecutorial efforts in a good light, as well as highlight attempts to secure the return of suspected genocidaires living abroad. Ngoga seemed surprised by the extent of Mutangana's reported activities.

¶16. (SBU) While it is extremely important that Mutangana's activities cease before they further jeopardize the USG's ability to prosecute alleged genocidaire fugitives and to remove them administratively to Rwanda, the U.S. government does hope that the excellent working relationship we have had with the Rwandan Justice Ministry, including the Fugitives Tracking Unit and Mutangana personally, can continue.

#### DEMARCHE INSTRUCTIONS FOR EMBASSY KIGALI

¶17. (SBU) In light of the foregoing information, Embassy Kigali is instructed to deliver the following demarche to the GOR at the highest appropriate level. The Department will deliver identical points to Rwandan Ambassador Kimonyo.

- The U.S. Government understands that Rwandan prosecutor Jean Bosco Mutangana, chief of the Genocide Fugitives Tracking Unit, is currently in the United States, engaging in what appears to be a mixture of official duties on behalf of the prosecutor's office and assistance to the U.S. news network NBC.

- Mr. Mutangana has contacted several U.S. law enforcement agencies, provided information to those agencies on alleged Rwandan genocide fugitives living in their jurisdictions, and pressed them to take action against the alleged fugitives. He has also visited at least one individual's employer with similar allegations, an action that resulted in a suspension of the person's employment.

- In addition, Mr. Mutangana has reportedly provided

individuals with copies of arrest warrants and indictments, and confronted one indicted individual directly and accused him of interfering with witnesses at the International Criminal Tribunal for Rwanda.

- These actions, taken without appropriate advance coordination between the governments of Rwanda and the United States, run the risk of jeopardizing ongoing law enforcement investigations in both countries.

- We are also concerned that activities carried out in the public domain risk exposing innocent individuals to unjustified scrutiny or punitive action, including but not limited to the possible loss of their legitimate employment.

- The Foreign Agents Registration Act requires foreign law enforcement officials to notify the U.S. Government prior to conducting any law enforcement activities in the United States. Mr. Mutangana did not notify the U.S. Government of his plans or receive consent for the activities in which he has apparently been engaged.

- Moreover, if Mr. Mutangana is engaging in official Rwandan government business while in the United States, he should have traveled to and entered the United States using the appropriate diplomatic category of visa for this purpose. As Mr. Mutangana did not, prior to his travel, indicate to the U.S. government any intent to conduct investigative or prosecutorial activities in the United States, his proper status in the United States in light of his reported activities over the past week is questionable.

¶8. (U) Embassy Kigali should deliver these points no later than Friday, December 19, and report back immediately to AF/C (Acting Director Siria Lopez).

#### DEMARCHE DELIVERED IN WASHINGTON

¶9. (C) AF Acting A/S Carter delivered the above points to Rwandan Ambassador James Kimonyo (accompanied by Political Counselor Andrew Tusabe) on December 17. Kimonyo had just returned from New York the previous day and claimed unfamiliarity with the Mutangana situation. Tusabe, however, said he was aware Mutangana is in the United States for what Tusabe described as "vacation." Both officials knew of NBC's project as described in para 4 above; the Ambassador said NBC had visited him about three months ago in search of information on former genocidaires now living in the United States. A/S Carter noted the right of NBC News, as a member of a free press, to conduct whatever media inquiries it wanted, but expressed concern about the role of a GOR official acting in a quasi-official capacity as has been reported. Throughout the discussion, Amb. Kimonyo repeatedly attempted to deflect attention away from Mutangana's actions, instead noting the slow pace of the U.S. investigations and prosecutions as well as the alleged crimes of the targeted individuals themselves. He did say, however, that he would contact his government and relay any response back to the Department.

RICE